



PATENT
Customer No. 22,852
Attorney Docket No. 05725.1243-00

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)	
)	
Béatrice TOUMI et al.)	Group Art Unit: 1615
)	
Application No.: 10/670,388)	Examiner: Melissa S. MERCIER
)	
Filed: September 26, 2003)	Confirmation No. 2739
)	
For: NAIL VARNISH COMPOSITION)	
COMPRISING A BLOCK)	
POLYMER)	

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

RESPONSE TO ELECTION OF SPECIES REQUIREMENT

In reply to the Office Action mailed March 30, 2007, Applicant submits the following remarks. The period for response has been extended three months to July 30, 2007, by the petition and fee filed herewith.

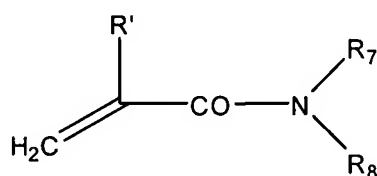
REMARKS

In the Office Action, at pages 2-4, the Examiner requires an election from each of the following three groups of species:

- I. **Identification of a first block polymer and a second block polymer each separately chosen from:**
 - a. a block with a T_g of greater than or equal to 40°C
 - b. a block with a T_g of less than or equal to 20°C
 - c. a block with a T_g of between 20 and 40°C

Further, the Examiner requires that if species a. is elected as one of the first or second blocks, the following additional election is required:

- aa. methacrylates of formula $\text{CH}_2 = \text{C}(\text{CH}_3)\text{-COOR}_1$
- bb. acrylates of formula $\text{CH}_2 = \text{CH-OOR}_2$
- cc. meth-acrylamides of the formula



- dd. methyl methacrylate
- ee. isobutyl methacrylate
- ff. isoboronyl methacrylate

Further, the Examiner requires that if species b. is elected as one of the first or second blocks, the following additional election is required:

- aa. acrylates of the formula $\text{CH}_2 = \text{CHCOOR}_3$
- bb. methacrylates of formula $\text{CH}_2 = \text{C}(\text{CH}_3)\text{-COOR}_4$
- cc. vinyl esters of formula $\text{R}_5\text{-CO-O-CH} = \text{OH}_2$
- dd. C4 to C12 alcohol and vinyl alcohol ethers
- ee. N-(C4 to C12)alkyl acrylamides

II. Identification of an additional monomer chosen from:

- a. hydrophilic monomers comprising at least one silicon atom

- b. ethylenically unsaturated monomers comprising at least one silicon atom
- c. ethylenically unsaturated monomers comprising at least one carboxylic or sulphonic acid function
- d. methacrylates of formula $\text{CH}_2=\text{C}(\text{CH}_3)\text{COOR}_6$
- e. methacrylates of formula $\text{CH}_2=\text{C}(\text{CH}_3)\text{COOR}_9$
- f. acrylates of formula $\text{CH}_2=\text{CHCOOR}_{10}$
- g. a polyoxyethylenated group comprising from 5 to 30 ethylene oxide units
- h. ethylenically unsaturated monomers comprising at least one tertiary amine function
- i. acrylic acid, methacrylic acid, and trifluorethyl methacrylate

III. Identification of organic solvent:

- a. ketones that are liquid at room temperature
- b. alcohols that are liquid at room temperature
- c. glycols that are liquid at room temperature
- d. propylene glycol ethers that are liquid at room temperature
- e. cyclic ethers
- f. short-chain esters containing from 3 to 8 carbon atoms in total
- g. ethers that are liquid at room temperature
- h. alkanes that are liquid at room temperature
- i. alkyl sulphoxides
- j. aldehydes that are liquid at room temperature
- k. heterocyclic compounds
- l. propylene carbonate or ethyl 3-ethoxypropionate

Applicants hereby elect, with traverse,

I. First Block

- a. block with a Tg of greater than or equal to 40°C (*claims 26-36*), and
- aa. methacrylates of formula $\text{CH}_2 = \text{C}(\text{CH}_3)\text{-COOR}_1$ (*claim 29*)

Second Block

- b. block with Tg of less than or equal to 20°C (*claim 26, 37-44*), and
- bb. methacrylates of formula $\text{CH}_2 = \text{C}(\text{CH}_3)\text{-COOR}_4$ (*claim 39*).

II. Additional Monomer

- i. acrylic acid, methacrylic acid, and trifluorethyl methacrylate (*claim 77*).

III. Organic Solvent

- h. alkanes that are liquid at room temperature (*claim 110*).

Applicant respectfully traverses the election of species requirement on the basis that the Examiner has failed to show that a serious burden exists to examine all of the alleged species. The M.P.E.P. § 803.02 lays out the requirements for justifying an election of species. And these requirements are clear. An examiner must show that the search and examination of a claim would impose a serious burden on the Examiner because it embraces an unreasonable number of species. Id. (emphasis added). The Examiner has not provided any evidence of such a burden.

If the Examiner, however, chooses to maintain the election of species requirement, Applicant expects the Examiner, if the elected species are found allowable, to continue to examine the full scope of the subject matter to the extent necessary to determine the patentability of claim 1. 35 U.S.C. § 121; M.P.E.P § 803.2.

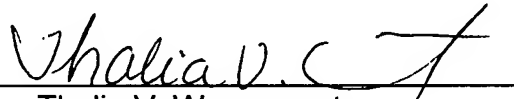
Thus, in view of the foregoing remarks, Applicant respectfully requests reconsideration and withdrawal of the election requirement.

If there is any fee due in connection with the filing of this paper, please charge the fee to our Deposit Account No. 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: July 30, 2007

By: 
Thalia V. Warnement
Reg. No. 39,064